1:Stanford U. S-4, 5 1956 AF12 North China AF12

as the social and political training ground of China. The political parties and modern schools, particularly the colleges and universities, now began to train youth for the new political world which was coming into being after 1911. No comparable institutions existed to inculcate in youth a moral and ethical code that would serve as a common guide in the new society. Attempts by the Kuomintang leaders during the period of the National Government to restore filial piety along with a revised Confucian code to the service of an increasingly authoritarian-minded state met with failure among the nation's youth.[8]

IV. THE FAMILY UNDER COMMUNISM

A. The Marriage Law

In reconstructing Chinese society, the Communist regime has undertaken to change the nature and function of the family. The first step in this direction was the new Marriage Law promulgated in May 1950. It is one of the three legal pillars of the state. The other two -- the Labor Union Law and the Land Reform Law -- were announced at a later date but put into effect within a much shorter time and with greater success.

8. Mary C. Wright, "From Revolution to Restoration: The Transformation of Kuomintang Ideology," Far Eastern Quarterly, August, 1955, pp. 515-32.

immediate success.[9]

671/582 Essentially, the outward provisions of the Marriage Law are comparable to the laws affecting marriage and the family in the civil and penal code announced by the National Government in 1930 and 1931.[10] The basic features of the new law are summed up in its first three articles, which provide for:

> (1) ... The abolition of arbitrary and compulsory marriage and the putting into effect of freedom of marriage for men and women.
>
> (2) ... The abolition of the feudal system of marriage ... based on the superiority of man over woman, and the putting into effect ...of monogamy, and equal rights for both sexes.
>
> (3) ... The abolition of the feudal system of marriage which neglects the interests of the children, and the putting into effect of the New Democratic system of marriage, which protects the lawful interests of women and children.[11]

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9. See comment by the American editors of Current Background, Hong Kong, American Consulate General, 236, pp. 1-3; hereafter cited as C.B.: Unless editorial comment is indicated, as here, citations from Current Background refer to literal translations of material in Communist magazines and newspapers and should be evaluated accordingly.

10. See editorial comment of C.B., 136, p. 3.

11. "Document 7," C.B., 236, pp. 22-29.

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671 593 582 In propagandizing and implementing the Marriage Law, the regime struck hard against the old authoritarianism of the family head, child marriages, mistreatment of women and discrimination against them as inferior to men, and the mistreatment of children by parents. Wives, especially wives of arranged marriages, were encouraged to seek divorce from intolerant unrepentent husbands. However, if husbands could be made to adopt the new attitude toward women, partners of arranged marriages were urged to remain united.

To help traditionally minded families attain the new Communist-established goal of "democracy" and "harmony," family "struggle" meetings were arranged under cadre supervision. Each member was pressed to confess his own past sins and suffering and to help other family members to remember theirs. The particular transgressions sought out for exposure, condemnation, redress, and rectification were the mistreatment and beating of wives by husbands, similar behavior by mothers-in-law against daughters-in-law, and interference by parents in young people's free choice of marriage partners. Much was made in the Communist press of the suicides or murder of women and young people, attributed to "the old feudal system of marriage."[12]

12. See especially C.B., 273, pp. 1-3; 236, pp. 4-14; and Survey of the China Mainland Press, Hong Kong, American Consulate General, 932, p. iv; hereafter cited as SCMP. The same conditions apply to this source as to C.B.

671 593 642 582 Whatever the humanitarian by-products, the Marriage Law aimed at a basic change in Chinese society with two utilitarian purposes in view. One was to change the popular basis of loyalty from the family to the state. The other was to free the Chinese woman from her preoccupation with the home and children so that she might become a laborer in the field and factory. These aims were quite openly expressed.

For instance, an article in the Peking Chung-kuo Ch'ing-nien Pao [China Youth] on the correct attitude toward parents, asserts that under the Confucian system with its emphasis on filial piety, parents had the right to regard their children as private property and demand sacrifices of them. Under the new system, the article points out, "children are not the private property of their parents, but belong first of all to the state and to the people, and ...the interests of the people should be the highest criterion governing our actions toward our parents."[13]

An editorial in the People's Daily in March 1955 notes that remnant feudal ideologies still obstructed "the participation of woman in socialist construction and various political activities." The editorial then goes on the state that it is in order to promote the political and production zeal of women that their rights must be promoted

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13. SCMP, 973, p. 31.

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671 642 593 582 and the Marriage Law implemented.[14] Various comments on the Marriage Law inspired by the regime stress Lenin's dictum that sex relationships and family problems are not individual or small affairs but matters of great social, economic, and political significance.[15]

B. Implementation of the Marriage Law

671 582 593 369 As the Nationalist Government had made no attempt to put into effect the marriage and family provisions of its 1930-31 codes among the rural population, the spirit and provisions of the Marriage Law were new and alien to this great majority of the Chinese people. They were still bound to the traditional family and had not encountered the economic experience and education which had pushed the family in Western-influenced cities toward new types of social organization from the beginning of the 20th century. Moreover, the new law offered no immediate or apparent economic benefits as had the Land Reform Law.

671 645 593 582 The result was apathy, when not open resistance, toward the reorientation of marriage and family practices among the farming population. These attitudes were as typical of most of the village cadres as of the rural people

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14. Ibid., 106, p. 15.

15. See, for instance, C.B., 275, p. 4; and SCMP, 1048, pp. 30-31.

generally.[16] However, Liu Ching-fan's criticism in 1953 of the use of force by village cadres to achieve acceptance of the new Marriage Law's provisions indicates that up to that time violence accompanied this measure as it had other measures in Communist China.[17]

The regime became aware only slowly of the failure of the Marriage Law to take automatic effect. A preliminary investigation gave such cause for concern that a thorough investigation was made at the end of 1952.[18] The results impelled the Communists to launch a drive for the thorough implementation of the Marriage Law and intensive indoctrination of the people in its principles. The movement was restricted to Han Chinese areas where land reform had been completed.[19]

Summing up the result of the campaign before the Government Administration Council on November 11, 1953, Liu Ching-fan reported satisfactory indoctrination of 80 to 90 per cent of the adults in 15 per cent of the nation's hsien and municipalities where land reform had been completed and, to a somewhat lesser degree, 60 to 70 per cent of the people in 60 per cent of similar local areas. Almost no progress was indicated in the remaining 25 per cent of the localities.[20]

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16. See editorial comment, C.B., 136, pp. 3-4
17. C.B., 273, p. 4.
18. C.B., 136, pp. 3-4.
19. C.B., 273, p. 1.
20. Ibid., p. 3.

671 593 582 Assuming the population in these areas to be roughly equal, these figures would mean that on an over-all basis even partial success was claimed for only 48 to 55.5 per cent of the population subjected to the indoctrination process.

C. The Communists' Vague Picture of Success

Unfortunately, we cannot precisely judge how successful the regime has been in implementing the Marriage Law nationally or regionally. Communist evaluations are too generalized to reveal a definite picture, and statistics released by the regime are sketchy and, when available, rarely provide a basis for significant comparison. For instance, in the spring of 1955 the Ministry of Internal Affairs reported on the prevalence of free marriages during the first quarter of 1954, stating that of the 402,025 applications for marriage registration in 562 hsien and municipalities of 15 provinces, only 1.07 per cent were denied because the contemplated marriages had been arranged without the willing consent of the couples concerned.[21] No figures were given on the remaining, roughly three-quarters of the country's hsien and municipalities, nor was any indication given to show whether the figures cited were typical of the whole country, the only figures available, or figures selected for propaganda or other purposes. A separate press report on the situation in Peking during 1954 noted

21. SCMP, ,1002, p. 3.

671 582 593 that only 13 of 30,389 couples applying for marriage registration failed to satisfy the requirements of the Marriage Law.[22] If the figures can be given credence, they indicate a remarkable advance over the situation existing two years earlier. After an investigation of Marriage Law implementation in 1952, a woman minister of justice, Shih Liang, reported that in only three of the country's 2,086 hsien were families reformed up to perfect Communist standards, and that in the East and Central-South regions freely contracted marriages and other reforms had gained no acceptance with the people.[23]

Reports on the results of the 1952 investigations of Marriage Law implementation were evidently intended to illustrate the extent or lack of family reform rather than to give a comprehensive picture of it. One report noted that in ten villages of Ts'ang hsien, Hopei, two-thirds of the sixty marriages contracted from January to September 1951 had been arranged by parents.[24] Another press account referred to conditions in Ho-chin hsien in southwestern Shansi where the groom customarily paid a bride-price of one shih-tan (110 lbs) of wheat for every year of the bride's age up to 18.[25] Another news story, citing better conditions in the "old liberated areas,"

22. Ibid., 1007, p. 30.
23. China News Analysis, Hong Kong, No. 5, p. 3.
24. C.B., 236, p. 5.
25. Ibid., p. 14.

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mentioned eight ch'ü in as many hsien of Shansi Province where approximately 88 per cent of the 2,047 marriages during 1951 were contracted of free choice.[26] By contrast, another news item reported that in northern Kiangsu during the first half of 1952 the number of arranged engagements totaled 39,911 or nearly three times the number of engagements "founded on free love," while 19,894 arranged marriages had taken place, exceeding the number of free marriages by 28 per cent.[27]

A further study of figures issued by Communist sources indicates that the regime did not have exact knowledge of the situation in many areas. To cite one example, an announcement of the results of the 1952 investigation of Marriage Law implementation included "incomplete statistics" on deaths attributed to the existence of problems and mistreatment connected with the "feudal family" system.

According to these figures, 4,105 women were killed or driven to suicide in the East China Region between January and August 1952; and 356 women and 161 young men suffered the same fate in the Northwest Region during the first half of 1952. In lieu of figures for the Central-South Region, the report mentioned 606 young men and women met violent deaths as a result of marriage

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26. Ibid., p. 4.
27. Ibid., p. 14.

671 disputes in 39 hsien (out of a total of 86) in Hunan.
593 No statistics were given for the North China
582 Region.[28]

It seems reasonable to assume that the figures are incomplete and the categories not comparable because the Communists had no more accurate material to offer. If the incidence of violence in connection with marital and family disputes is truly reflected in these figures, their extension into yearly rates shows these deaths occurred at the rate of less than two per hundred-thousand population in the Northwest Region, less than four per hundred-thousand in the East China Region, and less than nine per hundred-thousand in Hunan. It should be remembered, however, that these ratios are based on incomplete figures and that the incidence of violence may have resulted as much from Communist pressures as from the authoritarian character of the traditional family.

671 Divorce figures released by the Communists
582 are equally difficult to render meaningful because of gaps in statistics and the different time spans and categories which are given for the figures cited. For the nation as a whole, the number of divorces was reported to have risen from 186,000 in 1950 (the last seven months of it under the New Marriage Law), to 409,500 in 1951, and to 398,000 in the first half of 1952.[29] The latter

28. C.B., 236, p. 5.
29. Ibid., 243, p. 3.

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671 figure is only slightly higher than the number of
586 divorces for all of 1952 in the United States, whose population is about one-quarter that of China.[30] So far as is known, no separate figure for the number of divorces in the North China Region has been made public.

671 The latest picture of the progress of family
582 reform to be released by the Communist regime
573 was contained in the March 1955 report of the Marriage Law Implementing Committee. Although most of the report was couched in generalities, it included a summary of conditions "in certain advanced areas in Shansi and elsewhere." According to the committee, family relationships were improved or improving in 90-95 per cent of the homes and was "bad" in only 5-10 per cent. Of the larger group, 10-15 per cent were described as the "advanced modern type...with a definite degree of socialist consciousness, where democracy and harmony obtain and members are united for production." The report added that in 80 per cent of these homes women were no longer "oppressed, beaten, or scolded," but "remnants of the patriarchal system and the conception of the rights of the husband" still existed to varying degrees.[31]

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30. Divorces in the United States during 1952 totaled 392,000. See The World Almanac and Book of Facts for 1955, Harry Hansen, ed., New York, New York World Telegram and The Sun, 1955, p. 312.

31. SCMP., 1002, p. 3.

Bad conduct was not, as in the West, violation of the laws of God but deviation from the age-old norms of acceptable social behavior. Specifically, behavior was categorized as "bad" if it went against such prescribed norms as the following: (1) hsiao, filial submission to fathers and elders; (2) chung, loyal and submissive devotion to superiors; (3) hsin, good faith among friends and associates; (4) jen, benevolence or fellow-feeling which should inform all social relationships; (5) i, righteousness in one's dealings with others; (6) Li (good form), accepted procedures in human relations; (7) lien, integrity; and (8) ch'ih, sense of shame. 183 599

The laws of imperial China provided heavy punishments for violations of these norms; the most heinous crimes were those against hsiao, filial submission. Yet the ideal in the application of law was not blindfold justice but punishment administered with due regard for "human feeling [jen-ch'ing] and for the specific circumstances surrounding the crime. This attitude is illustrated in the old proverb: "There is one thing worse than a dishonest official and that is an honest official," 183 671

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32. [continued] as it had been for centuries, "the foundation stone...of social organization,...the measuring stick of all behavior and of the worth of the individual.

183 which expressed disapproval of a rigorous enforce-
671 ment of rules and regulations, of an enforcement that fails to take into account "human feelings."[33] The criteria for juding behavior as good or bad were therefore neither religious nor legalistic, but were the prevailing norms in the community, the customary practices sanctioned by tradition and ratified by a high degree of community consensus.

183 In traditional Chinese goodness could be
579 cultivated through practice, study, and contemplation. Confucianism held that the path to goodness was open to all, that those who attained a high order of goodness should be a moral elite, a group of exemplars for others. This moral elite was also, in Confucian theory, the group which should hold and exercise political power and enjoy the rewards of status and wealth. This nation sanctioned the long political dominance of the scholar-official.

The Chinese Communists have laid out new standards of good and bad. In the words of their leading theoretician, their aim is "...to reform mankind into the completely selfless citizenry of a Communist society."[34] In setting the new standards the Communists have consciously and unconsciously selected concepts from traditional moral

33. Ruth Bunzel and JohnWeakland, "An Anthropological Approach to Chinese Communism," Columbia Univ. Research in Contemporary Cultures, New York, 1952, pp. 80-81. Hereafter cited as Bunzel-Weakland.

34. Liu Shao-ch'i, "The Training of the Communist Party Member," first presented as a speech in 1939; cf. trans. in Boyd Compton, Mao's China, Seattle, 1952, p. 146.

635 provinces of Hopei and Shansi was at first under the control of the Bureau of Affairs of North China as a department of the Peking regime. In spite of their subordination to the central government, the two provinces were kept intact as administrative units. The structure of government followed the Organizational Law of the Provincial People's Government, according to which "... an area where no regional government or People's Council exists is under the direct supervision of the Central People's
• [671] Government."[1] Laws governing the municipality and the county were published on January 6, 1950. But for the lowest levels, such as the village government and the ch'ü government (an area larger than the village), no law was published by the Central People's Government. However, a single paragraph provides that the provincial government is entitled to make provisional rules whenever necessary to bridge such a gap. On the basis of this authority, the Hopei Provincial Government on February 22, 1950 issued four sets of provisional rules: (1) for the ch'ü government; (2) for the hsiang government; (3) for the representatives' conference of the ch'ü ; and (4) for the

1. "Sheng Jen-min Cheng-fu Tsu-chih-fa" ["Organizational Law of the Provincial People's Government"], T'u-pao Shou-ts'e [Newspaper Reading Handbook], Hankow, Ch'ang-chiang jih-pao she, 1950, p. 107.

698 reported to have handled all the cases in that county in ten days. In Ts'ang hsien, 146 cases were disposed of in four days.[13]

After mass concern has been aroused, mediation committees were established. These committees, organized in both the cities and the rural areas, formed the broad foundation of judicial power and functioned as instruments of local government to influence judicial activities. Composed meainly of activists from various mass organizations, the committees were further subdivided according to the types of disputes to be handled. When a dispute arose, all parties involved were invited to a meeting at which the activists bombarded the participants with propaganda and tried to persuade them to accept the verdict dictated by the committee. In the city of Peking,[14] collective mediation was begun and representatives of all related organizations were invited to present their views. Government policies were stressed during collective mediation, and sometimes smaller discussion groups were organized to facilitate individual "persuasion."

671 692 The Communist determination to eliminate the Kuomintang code and the existing judicial system was expressed in the Common Program of 1949. Article 17 of the Common Program proclaimed "the abolition of all laws, decrees, and judicial systems of the Kuomintang Government and the establishment of the People's Judicial System." The Communists justified complete replacement of the Kuomintang code, the Liu-fa Ch'üan-shu [The Compendium of the Six Codes of the Repub-

13. Ibid., August 11, 1951, p. 2.
14. People's Daily, July 18, 1952, p. 3.

lic of China] , on four princples.[15] (a) The judiciary is an instrument of the People's dictatorship to serve the interest of the state and to suppress the class opposing the workers and peasants. (b) The exceedingly mechanical procedure of the old courts is burdensome and unnecessary. (c) A purely legalistic approach to a case without consideration of the economic and social relationships in society is contrary to the socialist concept of law. (d) The use of precedents for adjudication should be abandoned as a bourgeois practice. 671 • 692

At the same time, the Communists defended their system from the socialist viewpoint, which entails the following procedures: (a) the reduction of appellant cases and the concentration of judicial authority in the lower courts; (b) the adoption of adjudication committees to render judgment by collegia in special cases; (c) the review and periodic check of non-appellant cases by the higher court and the practice in the lower court of seeking instructions from and reporting progress to the higher court; (d) the conduct of mobile trials, and (e) the use of People's assessors, composed of representatives from various People's organizations; (f) the use of "comrade trial" meetings for cases involving ideology and labor discipline in factories, officer, and enterprises; and (g) such methods as oral inquiries, on-the-spot investigations, the People's reception rooms, and mediation committees.

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15. For discussion, se Li Kuang-ts'an's article "P'i-p'ing Jen-min Fa-lü Kung-tso Chung Chiu-fa Kuan-tien" "Criticizing Old Jurisprudential Viewpoint in the People's Judicial Work," [Study] , No. 7, Oct. 1, 1952, pp. 16-19. 6

III. CRIMINAL CODES AND LAWS GOVERNING COUNTERREVOLUTIONARY ACTIVITIES

669 The Communists' intention to compile a criminal and civil code was evidenced by the organization of the Commission on Codification under the Government Administration Council, which has since become the Bureau of Codification under the State Council. As yet, the commission has not published the results of its work. However, many decrees and orders concerning criminal offenses and counterrevolutionary activities have been issued by the Communist government.

A. Criminal Code

669 671 The decree promulgated by the Chairman of the People's Republic of China in December 1954 prescribed the procedures for arrest and detention of suspects.[39] As a result arrests are not made until they have been approved by the People's court or by the People's procurators. The decree also provides guarantees of individual rights -- against arbitrary search -- for a minimum period of detention, and an early trial. But in certain circumstances, public

39. Ibid., December 21, 1954, p. 1.

669 security agencies can make unauthorized arrests
671 and ignore the individual protections prescribed by law. This is especially true when dealing with "counterrevolutionaries." Persons who cannot establish their identities or have no fixed address are subject to immediate arrest.

687 To reveal security information and to
671 violate national currency laws are criminal acts, subject to severe punishment, according to a decree pertaining to the safekeeping of national security information [40] and a law concering national currency.[41] National security information includes not only military information but also any data concerning economic and financial affairs, transportation conditions, judicial and legislative matters. The term "national security information" is so loosely defined that unlawful disclosure of any information can be regarded as a criminal act. An act resulting in the violation of national currency regulations, if judged to have been committed with the intent of contributing to the success of counterrevolutionaries is tantamount to a counterrevolutionary act. Within the loose definitions of the

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40. Yangtze Daily, June 11, 1951, p. 1.

41. Ibid., April 18, 1951, p. 4.

687 law governing "corruption,"[42] passed during the
671 Three-Anti Campaign by the Government Administration Council, severe penalties are provided for "corruption" and bribery by a government employee or by a citizen in collaboration with a civil servant.

B. Decrees to Eliminate Counterrevolutionary Activities

669 Any act deemed contrary to the interest
687 of the state is considered to be "counterrevolutionary." Persons placed by the government in the category of landlords, bandits, former Kuomintang officials, or members of secret societies have been branded automatically as counterrevolutionaries.

Although regulations governing the suppression and control of landlords in the North China Region are not available, the spirit and manner in which landlords are tried and placed under surveillance is the same in this region as in any other. Regulations governing the suppression of counterrevolutionaries,[43] issued by the Government Administration Council in February 1951, applied to all regions throughout the nation. This regulation is allegedly based on the spirit of Article 7 of the Common Program, which registered the determination of the Communist

42. People's Daily, April 22, 1952, p.1.

43. Liberation Daily, Feb. 23, 1951, p.1.

4: Burgess E-4, 5 (1926-1927) 1928 AF12 North China AF12

671 (3) The reorganization of certain technical services of the government. There are 138 modern courts in China. These were praised highly by the Extraterritorial Commission. An excellent codification of Chinese laws is being drawn up by trained Chinese lawyers.

205 206 (4) A remarkable development of the postal and telegraph systems. "In 1911 the length of mail routes was about 120,000 miles. Now they cover more than 250,000 miles. The money-order business during this period has increased from about $6,000,000 in silver to more than $75,000,000. It is pointed out that this remarkable branch of government service is carried on almost exclusively by Chinese. Likewise, the telegraph service is now so organized that messages are received in many of the remotest parts of the Republic.

496 (5) There are 7,000 miles of railroads, and they are managed on the business side and on the technical side almost entirely by Chinese.

491 (6) Ten years ago there were scarcely any highways in China that could be used by motor cars. Now there are 10,000 miles of good roads.

625 (7) The growing efficiency of the police and street cleaning departments of many Chinese cities is a sign of progress.

744 (8) In Peking a beginning has been made in governmental public health activities. There is an epidemic prevention bureau which is embarking on the production of vaccines and serums, and an experimental public health demonstration center for one district of the capital.

654 (9) The remarkably efficient geological survey conducted by V. K. Ting is now shedding more light on the real mineral resources of China.

439 (10) The importations from foreign countries in 1880 amounted to about 80,000,000 taels ($111,111,111),[1] of

[1] The sign $ unless accompanied by the term "gold" is used in this study to designate Chinese currency. For exchange rates see pp. 63-64.